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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,301	08/01/2003	Esteban Sardera	MS1-1365US	3666
22801 7590 12/24/2008 LEE & HAYES, PLLC 601 W. RIVERSIDE AVENUE SUITE 1400 SPOKANE, WA 99201				
EXAMINER				
IDOWU, OLUGBENGA O				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/632,301

Applicant(s)

SARDERA, ESTEBAN

Examiner

OLUGBENGA O. IDOWU

Art Unit

2425

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 50, 53 - 68 and 70 - 75 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1 - 50, 53 - 68 and 70 - 75 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/5/2008 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1 – 50, 53 – 68 and 70 - 75 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 6 - 24, 28 – 32, 34 – 47, 53 – 66, 70 - 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plotnick, publication number: US 20050097599 A1, in view of Barton, publication number: US 20050273828 in further view of Ward, publication number: US 2004/0045025 A1.

As per claims 1, 6, 7, 22, 45, 62, 63 and 64, Plotnick teaches a media content playback system, comprising:

one or more audio components configured to render media content as audio (PVR [0099]); a playback application configured to: receive a media content navigation input (PVR allowing user to pause and fastforward, [0099], lines 5 - 14); and obtain an advertisement to be rendered based on the media content navigation input (insertion of ads, [0122], [0158], displaying alternate ads based on trickplay [0169], lines 4- 8).

Plotnick does not teach displaying a navigation indicator, the advertisements being embedded in program guide data. Displaying a media content including an electronic program guide;

The media content navigation input configured to navigate to an alternate media content; including when a received media content navigation input navigates to the electronic program guide.

displaying in a cell within the electronic program guide, the advertisement being displayed adjacent to an associated media content data, the cell corresponding to at least one of a time of day, a type of a program, or a program channel on which the associated media content data is to be broadcast.

In an analogous art, Barton teaches generating a navigation indicator for display, the navigation indicator corresponding to the media content navigation input (Fig. 4 shows navigation indicator overlaid on media, [0031])

Therefore, it would have been obvious to one of ordinary skill in the art to modify Plotnick's alternate advertising system by including a navigation overlay, as described in Barton's video recording enhancement system, for the advantages of visualizing actions performed by user

The combination of Plotnick and Barton does not teach the advertisements being embedded in program guide data. Displaying a media content including an electronic program guide;

The media content navigation input configured to navigate to an alternate media content; including when a received media content navigation input navigates to the electronic program guide.

displaying in a cell within the electronic program guide, the advertisement being displayed adjacent to an associated media content data, the cell corresponding to at least one of a time of day, a type of a program, or a program channel on which the associated media content data is to be broadcast

In an analogous art Ward teaches a system whereby the advertisements are embedded in program guide data (adverts being combined with EPG data, [0024], lines 10 - 13)

Displaying a media content including an electronic program guide (Fig. 1, [0025]);

The media content navigation input configured to navigate to an alternate media content; including when a received media content navigation input navigates to the electronic program guide (Fig. 2, 35, [0085 – 0086]).

displaying in a cell within the electronic program guide, the advertisement being displayed adjacent to an associated media content data, the cell corresponding to at least one of a time of day, a type of a program, or a program channel on which the associated media content data is to be broadcast (Advertisement being adjacent to programs, Fig. 1, [0025], advertisement corresponding to time of day[0068])

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination Plotnick and Barton by transmitting advertisement data with program guide data, as described in Ward's EPG database system, for the advantages of better synchronizing advertisements with particular times or shows.

As per claims 2, 3, 23, 24, 46, 47, 65 and 66 the combination of Plotnick, Barton and Ward teach a media content playback system further comprising one or more audio components configured to render the advertisement as an audible message (Plotnick: playing audio of advertisement, [0170], lines 11 - 20).

As per claims 9 and 10, the combination of Plotnick, Barton and Ward teach a media content playback system wherein:

the graphics processor is further configured to process the media content to display a program on a display device (Plotnick: PVR [0099]);

the playback application is further configured to: receive the media content navigation input as at least one of a command to play the program, skip-ahead in the program, skip-back in the program, pause the program, and stop the program (Plotnick: PVR allowing user to pause and fastforward, [0099], lines 5 - 14);

generate a navigation indicator for display over the program on the display device (Barton: Fig. 4 shows navigation indicator overlaid on media, [0031]); and

obtain the advertisement for display over the program on the display device while the navigation indicator is displayed (insertion of ads, [0122], [0158]).

As per claims 11 and 30, the combination of Plotnick, Barton and Ward teach a media content playback system wherein the playback application is further configured to obtain the advertisement from an advertisement data store (Plotnick: ads taken from storage for presentation, [0149], lines 7 - 9).

As per claims 12 and 31, the combination of Plotnick, Barton and Ward teach a media content playback system wherein the playback application is further configured to obtain the advertisement from a content provider (ads received from an ad feed, [0149], lines 7 - 9).

As per claim 13, the combination of Plotnick, Barton and Ward teach a media content playback system wherein the playback application is further configured to obtain the

advertisement from program guide data (Plotnick: STB helping to receive ads based on ads appropriate to current viewers, [0149], lines 3 - 7).

Ward further teaches the advertisement playlist being integrated with program guide data (adverts data being combined with EPG data, [0024], lines 10 - 13, advertisement data containing advertisement list, [0103-0104])

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Plotnick, Barton and Ward by further including the aspect of Ward's database system for the advantage of keeping the system in a more orderly fashion.

As per claims 14, 29 and 70, the combination of Plotnick, Barton and Ward teach a media content playback system further comprising a cache configured to maintain the advertisement when received as additional content integrated with the media content, and wherein the playback application is further configured to obtain the advertisement from the cache to render the advertisement (receiving, storing and presenting ads, [0149], lines 7 - 9).

As per claims 15, 32, 54 and 71, the combination of Plotnick, Barton and Ward teach a media content playback system further comprising a cache configured to maintain an index to the advertisement (Plotnick: ad queue containing pointer, [0139], lines 6 - 8), and wherein the playback application is further configured to utilize the index to obtain

the advertisement from an advertisement data store to render the advertisement (Plotnick: ARLs used to obtain ads, [0139], lines 8 - 11).

As per claims 16, 36, 55, 57, 72 and 74, the combination of Plotnick, Barton and Ward teach a media content playback system further comprising a cache configured to maintain an index to the advertisement (Plotnick: ad queue containing pointer, [0139], lines 6 - 8), and wherein the playback application is further configured to utilize the index to obtain the advertisement from a content provider to render the advertisement (Plotnick: ARLs used to obtain ads, [0139], lines 8 - 11).

As per claims 17, 41, 56 and 58, the combination of Plotnick, Barton and Ward teach a media content playback system further comprising:

an advertisement store configured to maintain the advertisement (storing ads, [0149], lines 7 - 9);

a cache configured to maintain an index to the advertisement, the index received with the media content (Plotnick: ad queue containing pointer, [0139], lines 6 - 8); and wherein the playback application is further configured to utilize the index to obtain the advertisement from the advertisement store to render the advertisement (Plotnick: ARLs used to obtain ads, [0139], lines 8 - 11).

As per claims 18 and 59, the combination of Plotnick, Barton and Ward teach a media content playback system further comprising an advertisement store configured to

maintain one or more advertisements (storing ads, [0149], lines 7 - 9), and wherein: the graphics processor is further configured to process the media content to display a program on a display device (displaying alternate ads based on trickplay [0169], lines 4- 8).

As per claims 19, 37, 38, 42, 43, 53 and 73, the combination of Plotnick, Barton and Ward teach a media content playback system further comprising:
an advertisement store configured to maintain one or more advertisements (storing ads, [0149], lines 7 - 9); a cache configured to maintain a playlist that designates an order in which the one or more advertisements are to be rendered (Plotnick: ad queue, [0139], lines 6 - 8); and wherein the playback application is further configured to obtain the advertisement from the one or more advertisements according to the playlist (Plotnick: obtaining ads, [0139], lines 6 - 11).

As per claims 20 and 21, the combination of Plotnick, Barton and Ward teach a television-based client device comprising the media content playback system as recited in claim 1 (PVR [0099]).

As per claim 28, the combination of Plotnick, Barton and Ward teach a media content playback system wherein: the one or more audio components are further configured to render the media content as music (Plotnick: playing audio of advertisement, [0170], lines 11 - 20); and the playback application is further configured to receive the media

content navigation input as at least one of a command to play the music, skip-ahead in the music, skip-back in the music, pause the music, and stop the music (Plotnick: PVR allowing user to pause and fastforward, [0099], lines 5 - 14).

As per claim 34, the combination of Plotnick, Barton and Ward teach a portable client device comprising the media content playback system as recited in claim 22 (PVR [0099]).

As per claims 35 and 40, Plotnick teaches a content provider, comprising:

- an advertisement data store configured to maintain one or more advertisements corresponding to media content navigation (Plotnick: storing ads, [0149], lines 7 – 9, storing ads that correspond to mode of play, [0174], lines 5 - 12);

- an advertisement distribution application configured to: receive a request for an advertisement associated with a media content navigation input (Plotnick: presenting alternate ads based on trickplay mode, [0174], lines 12 - 20);

- obtain the advertisement from the advertisement data store (Plotnick: ARLs used to obtain ads, [0139], lines 8 - 11) Based on at least one of a time of day, a type of the program, and a program channel on which the program is broadcast (selecting ads based on current session, [0158]); and

- communicate the advertisement to a client device for display (Plotnick: insertion of ads, [0122], [0158], displaying alternate ads based on trickplay [0169], lines 4- 8)

Plotnick does not teach displaying a navigation indicator that corresponds to the media content navigation. Displaying a media content including an electronic program guide;

The media content navigation input configured to navigate to an alternate media content; including when a received media content navigation input navigates to the electronic program guide.

displaying in a cell within the electronic program guide, the advertisement being displayed adjacent to an associated media content data, the cell corresponding to at least one of a time of day, a type of a program, or a program channel on which the associated media content data is to be broadcast.

In an analogous art, Barton teaches generating a navigation indicator for display, the navigation indicator corresponding to the media content navigation input (Fig. 4 shows navigation indicator overlaid on media, [0031])

Therefore, it would have been obvious to one of ordinary skill in the art to modify Plotnick's alternate advertising system by including a navigation overlay, as described in Barton's video recording enhancement system, for the advantages of visualizing actions performed by user

The combination of Plotnick and Barton does not teach the advertisements being embedded in program guide data. Displaying a media content including an electronic program guide;

The media content navigation input configured to navigate to an alternate media content; including when a received media content navigation input navigates to the electronic program guide.

displaying in a cell within the electronic program guide, the advertisement being displayed adjacent to an associated media content data, the cell corresponding to at least one of a time of day, a type of a program, or a program channel on which the associated media content data is to be broadcast.

In an analogous art Ward teaches a system whereby the advertisements are embedded in program guide data (adverts being combined with EPG data, [0024], lines 10 - 13)

Displaying a media content including an electronic program guide (Fig. 1, [0025]);

The media content navigation input configured to navigate to an alternate media content; including when a received media content navigation input navigates to the electronic program guide (Fig. 2, 35, [0085 – 0086]).

displaying in a cell within the electronic program guide, the advertisement being displayed adjacent to an associated media content data, the cell corresponding to at least one of a time of day, a type of a program, or a program channel on which the associated media content data is to be broadcast (Advertisement being adjacent to programs, Fig. 1, [0025], advertisement corresponding to time of day[0068])

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination Plotnick and Barton by transmitting advertisement data with program guide data, as described in Ward's EPG database system, for the advantages of better synchronizing advertisements with particular times or shows.

As per claims 39, 44 and 75, the combination of Plotnick, Barton and Ward teach communicate media content to the client device, and communicate the advertisement to the client device based on at least one of a time of day and a type of the media content (Ward: advertisement being associated time, [0068])

As per claims 60 and 61, the combination of Plotnick, Barton and Ward teach further comprising: receiving an additional media content navigation input; displaying an additional navigation indicator corresponding to the additional media content navigation input; and rendering a second advertisement while the additional navigation indicator is displayed. (Plotnick: generating different alternate ads for different trickplay actions, [0141], lines 10 – 14, Fig. 4 shows navigation indicator overlaid on media, [0031])

5. Claims 4-5, 25 – 27, 48 – 50 and 67 - 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plotnick, publication number: US 20050097599 A1, in view of Barton, publication number: US 20050273828 A1, in view of Ward, publication number: US 2004/0045025 A1, in further view of Unger, patent number: US 6909837 B1.

As per claims 4, 5, 25, 26, 48, 49, 67 and 68 the combination of Plotnick, Barton and Ward teach a system that displays alternate advertising.
The combination does not teach the ad being an animated logo.

In an analogous art, Unger teaches a media content playback system wherein the graphics processor is further configured to process advertisement data to display the advertisement as an animated logo (advertising being a logo, col. 5, lines 54 – 62, multiple static images interpreted as animation col. 6, lines 1 - 8).

Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination of Plotnick, Barton and Ward by making the substitute ad an animated logo, as described in Unger's alternative advertising system, for the advantages of quick and easy recognition of sponsors.

As per claims 8, 27 and 50 the combination of Plotnick, Barton and Ward teach a system that displays an alternate version of an advertisement with audio.

The combination does not teach the alternate version being a logo.

In an analogous art, Unger teaches a media content playback system further comprising one or more audio components configured to render audio, and wherein:

the advertisement includes a logo(Unger: advertising being a logo, col. 5, lines 54 – 62) and corresponding audio; the graphics processor is further configured to process advertisement data to display the logo (Unger: outputting static frame, col. 5, lines 50 - 54); and the one or more audio components are further configured to render the corresponding audio while the logo is displayed (Plotnick: playing audio and alternate advertisement, [0170], lines 11 - 20).

Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination of Plotnick, Barton and Ward by making the substitute ad an animated logo, as described in Unger's alternative advertising system, for the advantages of quick and easy recognition of sponsors.

6. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Plotnick, publication number: US 20050097599 A1, in view of Barton, publication number: US 20050273828 in view of Ward, publication number: US 2004/0045025 A1 in further view of Billmaier, patent number US 7 076 202 B1.

As per claim 33, the combination of Plotnick, Barton and Ward teach a receiver that displays an advertisement based on a received user input.

The combination does teach whereby the receiver is portable.

In an analogous art, Billmaier teach a portable client device comprising a media content playback system (mobile receivers, col. 3, lines 11 - 15)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Plotnick, Barton and Ward by including a portable receiving device as described in Billmaier's system for providing information to mobile devices, for the advantages of providing the user with the opportunity to be able to access data from different locations without being restricted to a particular location.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUGBENGA O. IDOWU whose telephone number is (571)270-1450. The examiner can normally be reached on Monday to Friday, 7am - 5pm Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 571 272 7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Olugbenga O Idowu/
Examiner, Art Unit 2425

/Brian T. Pendleton/
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